

# TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

## Proposed Rule LSA Document #08-318(F)

### DIGEST

Amends 410 IAC 29-1-5, 410 IAC 29-1-6, 410 IAC 29-1-8, 410 IAC 29-1-9, 410 IAC 29-1-20, and 410 IAC 29-1-21 to update definitions. Adds 410 IAC 29-1-11.5, 410 IAC 29-1-16.3, and 410 IAC 29-1-19.5 to add new definitions. Amends 410 IAC 29-2-1 and 410 IAC 29-3-1 concerning case management and lab reporting. Adds 410 IAC 29-4-2 and 410 IAC 29-4-3 concerning risk assessments and remediation. Adds 410 IAC 29-5 concerning consumer products. Effective 30 days after filing with the Publisher.

**410 IAC 29-1-5; 410 IAC 29-1-6; 410 IAC 29-1-8; 410 IAC 29-1-9; 410 IAC 29-1-11.5; 410 IAC 29-1-16.3; 410 IAC 29-1-19.5; 410 IAC 29-1-20; 410 IAC 29-1-21; 410 IAC 29-2-1; 410 IAC 29-3-1; 410 IAC 29-4-2; 410 IAC 29-4-3; 410 IAC 29-5**

SECTION 1. 410 IAC 29-1-5 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 29-1-5 “Case manager” defined**

**Authority: IC 16-41-39.4-1**

**Affected: IC 16-41-39.4**

Sec. 5. “Case manager” means a person authorized by a health department and trained by the department or its designated representative within six (6) months of hire ~~or the effective date of this rule~~ to perform case management protocols developed by the state. (*Indiana State Department of Health; 410 IAC 29-1-5; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA*)

SECTION 2. 410 IAC 29-1-6 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 29-1-6 “Child case management service implementation and coordination” defined**

**Authority: IC 16-41-39.4-1**

**Affected: IC 16-41-39.4**

Sec. 6. “Child case management service implementation and coordination” means the following:

(1) For confirmed blood lead levels between zero (0) and nine and nine-tenths (9.9) µg/dL, the following:

(A) ~~Notify~~ **Notifying** the child's primary medical provider within ten (10) working days of receipt of test results by the local health officer.

(B) ~~Provide~~ **Providing** educational materials to the parents or family of the child regarding prevention of lead poisoning.

(C) Any additional actions the local health officer believes will assist the family in preventing the child's blood lead level from increasing.

(2) For confirmed elevated blood lead levels between ten (10) and fourteen and nine-tenths (14.9) µg/dL, ~~begin~~ **beginning** child case management services within ten (10) working days after receipt of test results, including the following:

(A) ~~Notify~~ **Notifying** the child's primary medical provider within five (5) working days of receipt of test results and ~~ensure~~ **ensuring** coordination of long-term services and retesting.

(B) ~~Arrange~~ **Arranging** for testing of all children ~~under less than~~ seven (7) years of age living in the home.

(C) ~~Conduct~~ **Conducting** an initial home visit to include the following:

(i) A medical, developmental, and behavioral history.

(ii) Lead education, including medical effects and environmental sources.

(iii) A determination of potential household exposures.

(iv) An evaluation of the risk of other family members, including pregnant women.

(v) A nutrition assessment or referral for nutrition assessment.

- (vi) A developmental assessment or referral for developmental assessment.
  - (vii) Referrals to other social services as appropriate.
- (D) ~~Provide~~ **Providing** an environmental inspection to include the following:
- (i) A risk assessment of the child's primary and secondary addresses within ten (10) working days after receipt of test results if the structure was built before 1978, to include the following:
    - (AA) A complete risk assessment including recommendations to mitigate identified lead hazards.
    - (BB) A written report to the family and the owner if the family does not own the home.
    - (CC) Education of the family and the owner on lead hazards in the home and measures to protect the child from further poisoning.
  - (ii) An environmental investigation, including the following:
    - (AA) Identification and evaluation of nonstructural exposure sources within the child's environment.
    - (BB) Presentation of results of the environmental investigation, including recommendations for reducing or eliminating exposure.
    - (CC) Education of the family on hazards found and education on temporary and permanent measures to protect the child from further exposure.
- (E) If the risk assessment finds lead hazards, immediately ~~provide~~ **providing** written notice to the property owner of the lead hazards and required remediation options **in accordance with 410 IAC 29-4**. The notice ~~should~~ **shall** include the risk assessment. The property owner ~~is~~ **shall be** given a reasonable time to implement recommendations for remediating lead hazards within ~~sixty (60)~~ **one hundred eighty (180) days**. **The property owner shall have a** A clearance examination ~~is conducted~~ **performed by a properly licensed individual** to establish the efficacy of remediation.
- (F) ~~Provide~~ **Providing** continuing child case management services until case closure as appropriate to the child's case and not less frequently than one (1) contact every three (3) months, to include the following:
- (i) Monitoring blood lead levels by retesting according to ~~subdivision (2)~~ **section 21 of this rule** and notification of the primary medical provider of the results and ensuring blood lead testing of other children and pregnant women residing in the home.
  - (ii) Monitoring and evaluation of other aspects of the child's case, including, but not limited to, the following:
    - (AA) Additional home visits to monitor the child's progress and to identify needs that may arise from changes in primary and secondary addresses, housing condition, family composition, occupations of family members, child's activities, child's development, medical condition, nutrition, and use of nonprescription medications or household goods.
    - (BB) Contacts with other service providers to monitor and evaluate service delivery, appropriateness, and efficacy.
- (3) For confirmed elevated blood lead levels between fifteen (15) and nineteen and nine-tenths (19.9) µg/dL, ~~initiate~~ **initiating** actions as in subdivision (2) and child case management services ~~begin~~ **beginning** within five (5) working days after receipt of test results.
- (4) For confirmed elevated blood lead levels between twenty (20) and forty-four and nine-tenths (44.9) µg/dL, ~~initiate~~ **initiating** child case management services within five (5) working days after receipt of test results and all actions as in subdivision (2) with the following changes:
- (A) ~~Notify~~ **Notifying** the child's primary medical provider immediately and ~~ensure~~ **ensuring** coordination of long-term services and follow-up testing.
  - (B) ~~Initiate~~ **Initiating** risk assessment of the child's primary and secondary addresses within five (5) working days after receipt of test results if the structure was built before 1978.
- (5) For confirmed elevated blood lead levels between forty-five (45) and sixty-nine and nine-tenths (69.9) µg/dL, ~~initiate~~ **initiating** child case management services within twenty-four (24) hours after receipt of test results and all actions as in subdivision (2) with the following changes:
- (A) ~~Notify~~ **Notifying** the child's primary medical provider immediately and ~~ensure~~ **ensuring** coordination of long-term services and follow-up testing.
  - (B) ~~Initiate~~ **Initiating** a risk assessment of the child's primary and secondary addresses within two (2) working days after receipt of test results if the structure was built before 1978.

(C) Chelation therapy followed by a venous blood lead test one (1) month after completion of therapy as follows:

(i) Chelation therapy may be conducted at the child's home if the home does not have any lead hazards.

(ii) If the home has lead hazards, the child must be admitted to a hospital and chelation therapy performed at the hospital.

(6) For confirmed elevated blood lead level greater than or equal to seventy (70) µg/dL, ~~initiate~~ **initiating** child case management services immediately after receipt of test results and all actions as in subdivision (2) with the following changes:

(A) ~~Notify~~ **Notifying** the child's primary medical provider immediately and ~~ensure~~ **ensuring** coordination of long-term services and follow-up testing.

(B) ~~Initiate~~ **Initiating** a risk assessment of the child's primary and secondary addresses within twenty-four (24) hours after receipt of test results if the structure was built before 1978.

(C) Treatment of the child's EBLL as a medical emergency.

(D) Admission of the child to a hospital for chelation therapy.

(E) ~~Obtain~~ **Obtaining** a venous blood lead test one (1) month after completion of therapy.

*(Indiana State Department of Health; 410 IAC 29-1-6; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA; errata filed Mar 29, 2007, 9:58 a.m.: 20070411-IR-410050189ACA)*

SECTION 3. 410 IAC 29-1-8 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 29-1-8 "Clearance examination" defined**

**Authority:** IC 16-41-39.4-1

**Affected:** IC 13-17-14; IC 16-41-39.4

Sec. 8. "Clearance examination" means an activity as ~~defined in 326 IAC 23~~ **conducted by a clearance examiner, lead inspector, or risk assessor who is licensed under IC 13-17-14** to establish proper completion of ~~remediation~~ **interim controls (as defined in 24 CFR 35.110)**. *(Indiana State Department of Health; 410 IAC 29-1-8; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

SECTION 4. 410 IAC 29-1-9 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 29-1-9 "Confirmatory testing" defined**

**Authority:** IC 16-41-39.4-1

**Affected:** IC 16-41-39.4

Sec. 9. "Confirmatory testing" means conducting additional blood lead level tests on children with initial capillary blood lead tests as follows:

(1) Initial blood lead level zero (0) to nine and nine-tenths (9.9) µg/dL requires no confirmatory test.

(2) ~~Confirm~~ **Confirming** initial blood lead levels of:

(A) ten (10) to nineteen and nine-tenths (19.9) µg/dL within ~~two (2)~~ **three (3)** months; ~~of receiving test results by the venous or capillary method.~~

(B) twenty (20) to forty-four and nine-tenths (44.9) µg/dL within one (1) week ~~of receiving test results by the venous or capillary method.~~ **month;**

(C) forty-five (45) to ~~fifty-nine and nine-tenths (59.9)~~ **fifty-nine and nine-tenths (59.9)** µg/dL and over with a venous test within ~~twenty-four (24)~~ **forty-eight (48)** hours; and

(D) ~~sixty (60) to sixty-nine and nine-tenths (69.9)~~ **sixty (60) to sixty-nine and nine-tenths (69.9)** µg/dL within twenty-four (24) hours;

~~of receiving test results by the venous or capillary method.~~

(3) **Confirming initial blood lead levels of seventy (70) µg/dL and higher immediately with an emergency lab test and considering blood lead levels of seventy (70) µg/dL to be a medical emergency.**

*(Indiana State Department of Health; 410 IAC 29-1-9; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

SECTION 5. 410 IAC 29-1-11.5 IS ADDED TO READ AS FOLLOWS:

**410 IAC 29-1-11.5 "Consumer product" defined**

**Authority:** IC 16-41-39.4-7

**Affected:** IC 16-41-39.4

**Sec. 11.5. "Consumer product" means an item or a component of an item that is produced or distributed for:**

**(1) sale to a consumer for use; or**

**(2) the personal use, consumption, or enjoyment of a consumer.**

*(Indiana State Department of Health; 410 IAC 29-1-11.5)*

SECTION 6. 410 IAC 29-1-16.3 IS ADDED TO READ AS FOLLOWS:

**410 IAC 29-1-16.3 "Lead test kit" defined**

**Authority:** IC 16-41-39.4-7

**Affected:** IC 16-41-39.4

**Sec. 16.3. "Lead test kit" means an implement specifically designed to detect the presence of lead on a painted surface or surface covering that has been recognized by the Environmental Protection Agency in accordance with 40 CFR 745.88. *(Indiana State Department of Health; 410 IAC 29-1-16.3)***

SECTION 7. 410 IAC 29-1-19.5 IS ADDED TO READ AS FOLLOWS:

**410 IAC 29-1-19.5 "Paint product" defined**

**Authority:** IC 16-41-39.4-7

**Affected:** IC 16-41-39.4

**Sec. 19.5. "Paint product" means a tool or substance used in conjunction with the application or removal of paint. *(Indiana State Department of Health; 410 IAC 29-1-19.5)***

SECTION 8. 410 IAC 29-1-20 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 29-1-20 "Remediation" defined**

**Authority:** IC 16-41-39.4-1

**Affected:** IC 13-11-2-0.5; IC 16-41-39.4

**Sec. 20. "Remediation" means actions that constitute either:**

**(1) abatement (as defined in IC 13-11-2-0.5); or**

**(2) interim control (as defined in 24 CFR 35.110);**

**of a lead hazard, as defined in 326 IAC 23. *(Indiana State Department of Health; 410 IAC 29-1-20; filed Jan 2, 2007, 2:49 p.m.; 20070131-IR-410050189FRA)***

SECTION 9. 410 IAC 29-1-21 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 29-1-21 "Retesting" defined**

**Authority:** IC 16-41-39.4-1

**Affected:** IC 16-41-39.4

**Sec. 21. "Retesting" means additional testing to monitor a child's blood lead level over time with specific intervals depending on whether a child's blood lead level has or has not decreased, as follows: in accordance with the following schedule, unless a primary care physician or local health department determines retesting should occur within shorter intervals:**

**(1) If the child's blood lead level has not decreased by at least three (3) µg/dL within at least a three (3) month period, retest as follows:**

**(A) In three (3) (1) Within six (6) months for results between zero (0) and fourteen nine and nine-tenths (14.9) (9.9) µg/dL.**

- (B) In two (2) months for results between fifteen (15) and nineteen and nine-tenths (19.9) µg/dL.
- (C) In one (1) month for results between twenty (20) and twenty-four and nine-tenths (24.9) µg/dL.
- (D) In two (2) weeks for results between twenty-five (25) and forty-four and nine-tenths (44.9) µg/dL.
- (E) By the venous method one (1) month after completion of chelation therapy for results greater than forty-five (45) µg/dL.

(2) If the child's blood lead level has decreased by at least three (3) µg/dL within at least a three (3) month period, retest as follows:

- (A) In six (6) months for results between zero (0) and fourteen and nine-tenths (14.9) µg/dL.
- (B) In three (3) months for results between fifteen (15) and nineteen and nine-tenths (19.9) µg/dL.
- (C) In two (2) (2) Within three (3) months for results between twenty (20) ten (10) and twenty-four and nine-tenths (24.9) µg/dL.
- (D) In (3) Within one (1) month for results between twenty-five (25) and forty-four and nine-tenths (44.9) µg/dL.
- (E) (4) By the venous method within one (1) month after completion of chelation therapy for results greater than forty-five (45) µg/dL.

*(Indiana State Department of Health; 410 IAC 29-1-21; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

SECTION 10. 410 IAC 29-2-1 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 29-2-1 Case management**

**Authority:** IC 16-41-39.4-1

**Affected:** IC 16-41-39.4

Sec. 1. Local health officers shall ensure the provision of case management to all children under less than seven (7) years of age in their jurisdictions, including the following:

- (1) Outreach and identification of EBLL children.
- (2) Child case management service planning and resource identification.
- (3) Confirmatory testing.
- (4) Child case management service implementation and coordination.
- (5) Retesting.
- (6) Monitoring of child case management service delivery, program advocacy, and program evaluation.

*(Indiana State Department of Health; 410 IAC 29-2-1; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

SECTION 11. 410 IAC 29-3-1 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 29-3-1 Reporting of blood lead test results**

**Authority:** IC 16-41-39.4-1

**Affected:** IC 16-41-39.4-3

Sec. 1. (a) A person that examines the blood of an individual for the presence of lead must report to the department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

- (1) With respect to the individual whose blood is examined, the following:
  - (A) Full name.
  - (B) Date of birth.
  - (C) Gender.
  - (D) Full address, including street address, city, and zip code.
  - (E) County of residence.
  - (F) Race and ethnicity.
  - (G) Parent's or guardian's name and phone number, where applicable.
  - (H) Any other information that is required to be included to qualify to receive federal funding.
- (2) With respect to the examination, the following:
  - (A) The date.
  - (B) The type of blood test performed.
  - (C) The person's normal limits for the test.

- (D) The results of the test.
- (E) The person's interpretation of the results of the test.
- (3) The names, addresses, and telephone numbers of the following:
  - (A) The person examining the blood.
  - (B) The attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after receiving written notification by the department, a civil penalty may be assessed in accordance with IC 16-41-39.4-3.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

- (1) after requesting information, is unable to collect all of the information required for a complete report; or
- (2) provides incorrect information on a completed report.

*(Indiana State Department of Health; 410 IAC 29-3-1; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

SECTION 12. 410 IAC 29-4-2 IS ADDED TO READ AS FOLLOWS:

**410 IAC 29-4-2 Risk assessment reports**

**Authority:** IC 16-41-39-4.1

**Affected:** IC 16-41-39.4

**Sec. 2.** If a risk assessment identifies lead hazards, the local health department or its agent must provide a complete standard risk assessment report identifying the component location and required remediation options for each lead hazard to the property owner not later than five (5) business days from the verification by sample analysis of the lead hazards. Standard risk assessment reports shall include orders for the property owner to do the following:

- (1) Develop a reasonable written schedule prioritizing the work based on the recommendations of the risk assessment and the local health department within thirty (30) days.
- (2) Implement the recommendations for remediation of the lead hazards based on priorities set forth in the risk assessment, the written schedule, and local health department instructions.
- (3) Complete all work within a time frame, not to exceed one hundred eighty (180) days, as specified by the:
  - (A) risk assessor; or
  - (B) local health department.

- (4) Conduct a clearance examination after remediation to establish the efficacy of the remediation.

*(Indiana State Department of Health; 410 IAC 29-4-2)*

SECTION 13. 410 IAC 29-4-3 IS ADDED TO READ AS FOLLOWS:

**410 IAC 29-4-3 Failure to remediate**

**Authority:** IC 16-41-39-4.1

**Affected:** IC 16-41-39.4

**Sec. 3.** If a property owner fails to remediate all lead hazards identified in the risk assessment report, the local health officer shall refer all case documentation to the appropriate legal staff in the jurisdiction of the local health department to pursue legal action. *(Indiana State Department of Health; 410 IAC 29-4-3)*

SECTION 14. 410 IAC 29-5 IS ADDED TO READ AS FOLLOWS:

**Rule 5. Consumer Products**

**410 IAC 29-5-1 Retail establishments**

Authority: IC 16-41-39.4-7

Affected: IC 16-41-39.4

**Sec. 1.** A retail establishment that sells paint or paint products shall do all of the following:

(1) Offer for sale a lead test kit that is capable of determining the presence of lead-based paint. The location of the lead test kits shall be:

(A) in close proximity to the paint and paint products; and

(B) known by all employees that provide advice to customers about paint or paint products.

(2) Provide customers with the Environmental Protection Agency pamphlet "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools" or a similar source of information approved by the department.

(3) Ensure that at least one (1) employee per retail location who:

(A) is at least eighteen (18) years of age; and

(B) provides advice to customers concerning paint and paint products;

attends a department approved training program concerning lead hazards within ninety (90) days of the effective date of this rule.

(4) Provide training to all other employees at the retail location that may provide advice to customers concerning paint and paint products. Training shall be completed within thirty (30) days of participation in the department approved training program.

(5) Train new employees within thirty (30) days of starting employment.

*(Indiana State Department of Health; 410 IAC 29-5-1)*

#### **410 IAC 29-5-2 Consumer product labels**

Authority: IC 16-41-39.4-7

Affected: IC 16-41-39.4

**Sec. 2.** (a) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

(1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and

(2) specifies that the consumer product contains or may contain lead.

(b) A person that sells, offers for sale, or distributes a consumer product that contains or may contain lead, shall do one (1) or both of the following:

(1) Post a sign, in both English and Spanish, within two (2) feet of the front entrance stating that products available for purchase in that retail location contain or may contain lead. The sign must be visible at all times and meet the following minimum specifications:

(A) Be at least eighteen (18) inches by twenty-four (24) inches in size.

(B) Include a statement that products containing lead or that may contain lead are being offered for sale in the retail establishment.

(C) Include a statement that lead is a hazardous metal and may cause serious health effects in children under seven (7) years of age.

(D) State contact information for the department or local health department where a consumer may obtain additional information.

(E) Contain the date of posting.

(2) Place a label, in both English and Spanish, approved by the department, on each applicable product that clearly states that the product contains or may contain lead. The label must meet the following minimum specifications:

(A) Be of adequate size in proportion to the product.

(B) Include a statement that lead is a hazardous metal and may cause serious health effects in children under seven (7) years of age.

(C) State contact information for the department or local health department where a consumer may obtain additional information.

(D) Contain the date of labeling.

*(Indiana State Department of Health; 410 IAC 29-5-2)*

**410 IAC 29-5-3 Consumer products disallowed**

Authority: IC 16-41-39.4-7

Affected: IC 16-41-39.4

**Sec. 3. (a)** A person shall not sell, or offer for sale at wholesale or retail, or distribute in any manner, a consumer product, a surface coating material, a food product, or food packaging that:

(1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

(2) has been determined by the department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; and

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(b) The department or local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance.

(c) If the department has reason to believe that a person has violated this section, in addition to all other remedies, the department may take any of the following actions:

(1) Verbally instruct the retail establishment to immediately stop offering the applicable items for sale or distribution.

(2) Issue a cease and desist order.

(3) Bring an action to enjoin the person from violating this section.

(4) Seize the applicable items.

(5) Take any other action as allowed by law.

(d) If the department seizes items under subsection (c), the items seized shall be:

(1) held for a period of not less than thirty (30) days;

(2) stored at the owner's expense; and

(3) destroyed as of the date stated in the notice.

*(Indiana State Department of Health; 410 IAC 29-5-3)*